APPEAL NO. 020195
FILED MARCH 5, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on December 12, 2001. The hearing officer determined that the respondent (claimant) was entitled to change treating doctors to Dr. S, pursuant to Section 408.022, and that the claimant had disability beginning on June 20, 2000, and continuing through September 5, 2000, and beginning on March 23, 2001, and continuing through the date of the CCH. The appellant (carrier) appeals on sufficiency of the evidence grounds. The claimant responded, urging affirmance.

DECISION

Affirmed.

The issues of whether the claimant was entitled to change his treating doctor to Dr. S and whether and when the claimant had disability presented factual issues to the hearing officer for his decision. The evidence, including the medical evidence, was sharply conflicting, with the carrier asserting that the claimant had no further need of any medical care for his compensable right knee injury, and had changed treating doctors because his then treating doctor, Dr. G, was going to find him at maximum medical improvement (MMI) and return him to work. The hearing officer provided a lengthy and thorough analysis of the evidence presented at the CCH and determined that Dr. G declined in writing to continue as the treating doctor, leaving the claimant with no choice but to change to a new treating doctor. In his discussion, the hearing officer went on to state that the evidence showed that the designated doctor, Dr. B, had found the claimant was not at MMI, and that an orthopedic surgeon, Dr. D, diagnosed continuing knee problems which needed further surgery, and that the claimant continues to have disability as a result of the compensable injury.

There is sufficient evidence in the record to support the hearing officer's determinations. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This is equally true regarding medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). As an appeals body, we will not substitute our judgment for that of the hearing officer when the determination is not so against the overwhelming weight of the evidence as to be clearly wrong and unjust, and we do not find it so in this case. Cain v. Bain, 709 S.W.2d 175, 176

(Tex. 1986); Texas Workers' Compensation Commission Appeal No. 950456, decided May 9, 1995.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ST. PAUL FIRE AND MARINE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

MIKE MARINO
225 EAST JOHN W. CARPENTER FREEWAY, SUITE 1100
IRVING, TEXAS 75062.

Michael B. McShane
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge